

Office of the Secretary, HUD

§ 25.4

AUTHORITY: 12 U.S.C. 1708(c), 1708(d), 1709(s), 1715b and 1735(f)–14; 42 U.S.C. 3535(d).

SOURCE: 57 FR 31051, July 13, 1992, unless otherwise noted.

§ 25.1 Scope of rules in this part.

The rules in this part are applicable to the operation of the Mortgagee Review Board and to proceedings arising from administrative actions of the Mortgagee Review Board.

§ 25.2 Establishment and authority of Board.

(a) *Establishment of the Board.* The Mortgagee Review Board (Board) was established in the Federal Housing Administration, which is in the Office of the Assistant Secretary for Housing—Federal Housing Commissioner, by section 202(c)(1) of the National Housing Act (12 U.S.C. 1708(c)(1)), as added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989).

(b) *Authority of the Board.* The Board has the authority to initiate administrative actions against mortgagees and lenders under 12 U.S.C. 1708(c) and shall exercise all of the functions of the Secretary with respect to administrative actions against mortgagees and lenders and such other functions as are provided in this part. The Board shall have all powers necessary and incident to the performance of these functions and such other functions as are provided in this part, except as limited by this part.

(1) *Administrative Actions.* The Board has the authority to take any administrative action against mortgagees and lenders as provided in 12 U.S.C. 1708(c). The Board may delegate its authority to take all nondiscretionary acts.

(2) *Civil Money Penalties.* The Board is authorized pursuant to section 536 of the National Housing Act (12 U.S.C. 1735(f)–14) to impose civil money penalties upon mortgagees and lenders, as set forth in 24 CFR part 30. The violations for which a civil money penalty may be imposed are listed in subpart B (Violations) of 24 CFR part 30. Hearings to challenge the imposition of civil money penalties shall be conducted according to the applicable rules of 24 CFR part 30.

(3) *Authorization for other administrative actions.* The Board may, in its discretion, approve the initiation of a suspension or debarment action against a mortgagee or lender by any Suspending or Debarring Official under 24 CFR part 24.

[73 FR 60540, Oct. 10, 2008]

§ 25.3 Definitions.

Adequate evidence. Information sufficient to support the reasonable belief that a particular act or omission has occurred.

Board. The Mortgagee Review Board.

Lender. A financial institution as defined in paragraphs (a) and (b) of the definition of lender in § 202.2 of this title.

Mortgagee. For purposes of this part, the term “mortgagee” includes:

(1) The original lender under the mortgage, as that term is defined at sections 201(a) and 207(a)(1) of the National Housing Act (12 U.S.C. 1707(a), 1713(a)(1));

(2) A lender, as defined in this section;

(3) A branch office or subsidiary of the mortgagee or lender; or

(4) Successors and assigns of the mortgagee or lender, as are approved by the Commissioner.

Person. Any individual, corporation, partnership, association, unit of government or legal entity, however organized.

Secretary. The Secretary of the Department of Housing and Urban Development or a person designated by the Secretary.

[57 FR 31051, July 13, 1992; 57 FR 37085, Aug. 18, 1992, as amended at 60 FR 13835, Mar. 14, 1995; 60 FR 39237, Aug. 1, 1995; 61 FR 685, Jan. 9, 1996; 62 FR 20081, Apr. 24, 1997; 72 FR 53878, Sept. 20, 2007; 73 FR 60540, Oct. 10, 2008; 77 FR 51467, Aug. 24, 2012]

§ 25.4 Operation of the Mortgagee Review Board.

(a) *Members.* The Board consists of the following HUD officials designated to serve on the Board by section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)(2)):

(1) The Assistant Secretary of Housing—Federal Housing Commissioner;

(2) The General Counsel of the Department;

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(3) The President of the Government National Mortgage Association (GNMA);

(4) The Assistant Secretary for Administration;

(5) The Assistant Secretary for Fair Housing and Equal Opportunity (in cases involving violations of non-discrimination requirements);

(6) The Chief Financial Officer of the Department; and

(7) The Director of the Enforcement Center; or their designees.

(b) *Advisors.* The Inspector General or his or her designee, and the Director of the Office of Lender Activities and Program Compliance (or such other position as may be assigned such duties), and such other persons as the Board may appoint, shall serve as nonvoting advisors to the Board.

(c) *Quorum.* Four members of the Board or their designees shall constitute a quorum.

(d) *Determination by the Board.* Any administrative action taken by the Board shall be determined by a majority vote of the quorum.

[57 FR 31051, July 13, 1992; 57 FR 37085, Aug. 18, 1992, as amended at 73 FR 60540, Oct. 10, 2008]

§ 25.5 Administrative actions.

(a) *General.* The Board is authorized to take administrative actions in accordance with 12 U.S.C. 1708(c), including, but not limited to, the following: issue a letter of reprimand, probation, suspension, or withdrawal; or enter into a settlement agreement.

(b) *Letter of reprimand.* A letter of reprimand shall be effective upon receipt of the letter by the mortgagee. Failure to comply with a directive in the letter of reprimand may result in any other administrative action that the Board finds appropriate as provided by 12 U.S.C. 1708(c).

(c) *Probation.* Probation shall be effective upon receipt of the notice of probation by the mortgagee. Failure to comply with the terms of probation may result in any other administrative action that the Board finds appropriate as provided by 12 U.S.C. 1708(c).

(d) *Suspension—(1) Effect of suspension.* (i) During the period of suspension, HUD will not endorse any mortgage originated by the suspended mort-

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gagee under the Title II program unless prior to the date of suspension:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of suspension, a lender may not originate new Title I loans under its Title I Contract of Insurance or apply for a new Contract of Insurance.

(2) *Effective date of suspension.* A suspension issued pursuant to § 25.7(d) is effective upon issuance. Any other suspension is effective upon receipt of the notice of suspension by the mortgagee.

(e) *Withdrawal—(1) Effect of withdrawal.* (i) During the period of withdrawal, HUD will not endorse any mortgage originated by the withdrawn mortgagee under the Title II program, unless prior to the date of withdrawal:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of withdrawal, a lender may not originate new Title I loans under its Title I Contract of Insurance or apply for a new Contract of Insurance. The Board may limit the geographical extent of the withdrawal, or limit its scope (e.g., to either the single family or multifamily activities of a withdrawn mortgagee). Upon the expiration of the period of withdrawal, the mortgagee may file a new application for approval under 24 CFR part 202.

(2) *Effective date of withdrawal.* (i) If the Board determines that immediate action is in the public interest or in the best interests of the Department, then withdrawal shall be effective upon receipt of the Board's notice of withdrawal.

(ii) If the Board does not determine that immediate action is necessary according to paragraph (e)(2)(i) of this section, then withdrawal shall be effective either:

(A) Upon the expiration of the 30-day period specified in § 25.10, if the mortgagee has not requested a hearing; or